



Water Quality NewsFlash

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Pesticide Application to Waterways – EPA revises guidance re: need for NPDES permits

– In 2001, the State Water Resources Control Board quickly issued a statewide general permit (Order 2001-12-DWQ) to regulate discharges of pesticides to waterways. This action was in response to an appeals court decision (*Headwaters, Inc. v. Talent Irrigation District*) which indicated that permits are needed whenever herbicides or other pesticides are applied directly to waterways that may contact “waters of the U.S.” Stormwater system managers sometimes need to apply chemicals to waterways to control mosquitoes or to clear clogged drainage ditches. The original 2001 permit was subsequently replaced by two permits: *Discharges of Aquatic Pesticides for Vector Control* (WQ Order 2004-0008-DWQ) and *Discharge of Aquatic Pesticides for Aquatic Weed Control* (WQ Order 2004-0009-DWQ).

In 2003, EPA issued interim guidance that was somewhat at odds with the court decision. EPA concluded that application of a pesticide to U.S. waters, consistent with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), does not constitute a *discharge of a pollutant* under the Clean Water Act in specified circumstances and therefore does not necessarily require a permit.

This February 1, the EPA released a revised interpretive statement and announced EPA’s intent to issue new NPDES permit program regulations to incorporate the substance of the interpretive statement. It is not clear how EPA’s action will affect the current State permits which are still required for pesticide use for vectors and aquatic weeds. State permits and related documents:

<http://www.swrcb.ca.gov/resdec/wqorders/2001/wqo/wqo2001-12.doc> EPA notice:

<http://frwebgate5.access.gpo.gov/cgi-bin/waisgate.cgi?WAISdocID=315455424545+0+0+0&WAIAction=retrieve>:

ASBS – Department requests Ocean Plan exception – In October, the SWRCB sent letters to the Department, various coastal cities, and others who discharge into one or more of the 34 coastal Areas of Special Biological Significance. The letters requested that the parties involved either cease the discharge of wastewater, including stormwater, into ASBS or request an exception from the Ocean Plan. (See *NewsFlash 04-50* and *05-03* for more information.) On February 1, the Department submitted an exception request. In some cases, however, the Department may be able to divert flows away from the ASBS. More information on ASBS at:

<http://www.waterboards.ca.gov/plnspols/oplans/asbs.html>

Industrial SW Permit – Board hears testimony; comment period extended

– On January 31 and February 3, the State Water Resources Control Board heard public testimony concerning the proposed Industrial Activities Storm Water General Permit. (See *NewsFlash 04-51* for more information.) The permit has attracted much interest and the Board has extended the comment period until February 18, 2005. http://www.waterboards.ca.gov/stormwtr/docs/final_draft_indus.pdf

WQ NewsFlash is a weekly update of storm water and related news for the Department. Verify information before taking action on these bulletins. Contact Betty Sanchez, Betty_Sanchez@dot.ca.gov (916) 653-2115, or Fred Krieger, (510) 843-7889, fkrieger@msn.com with questions or to be added or deleted from e-mail list. Posted online at: <http://www.dot.ca.gov/hq/env/stormwater/publicat/newsflash/index.htm>